CWP No.1763 of 2007

06.11.2007 Present: Mr. Karan Singh Kanwar, counsel for the petitioner.

Mr. Sumit Raj vice Mr. S.R. Sharma, counsel for respondent No. 1.

Issue notice to respondent No. 1. Mr. Sumit Raj, Advocte appearing vice Mr. S.R. Sharma, waives service of notice on behalf of respondent No. 1.

We have heard the learned counsel for the parties and have also gone through the record.

Briefly stated the facts of the case are that wife of the petitioner, namely, Dr.(Mrs.) Urmil Sharma was Reader in Sanskrit, ICDEOL, H.P. University i.e. under respondent No. 1. She died while in service on 19.11.2000 and she had nominated her husband for receiving all service benefits due to her. The petitioner applied for her service benefits as her nominee and legal heir and he was asked to submit his claim and he annexed all the requisite documents as required. The petitioner was sanctioned the balance amount of death gratuity, exgratia, encashment of unutilized earned leave and family pension etc. on 26.7.2002, but the amount was not released by respondent No. 1. The petitioner made representation to respondent No. 1 who made the

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payment on 29.4.2003 after two years, 5 months and 10 days from the date of death of wife of the petitioner.

The petitioner alleged that there has been inordinate delay in releasing the amount by respondent No. 1 and he claimed the interest on this amount vide his representation dated 27.9.2003. The representation was not decided. Thereafter, the petitioner on 15.5.2006 again issued notice to respondent No. 1 calling upon respondent No. 1 to pay the interest on delayed payment. Respondent No.1 vide his letter dated 30.7.2006 rejected the claim of the petitioner on the ground that it was barred by limitation. Petitioner challenged the action of respondent No. 1 by filing Original Application before the State Administrative Tribunal, who issued notice to respondent No. 1 and after taking the reply of respondent and hearing the parties, dismissed the Original Application vide judgment dated 30.7.2007. Being aggrieved, the petitioner has filed the present writ petition.

It is clear that these payments were made to the petitioner by the State Government on 29.4.2003 vide its order. The petitioner made a representation on 27.9.2003 and then served a notice upon the State Government after about three years vide notice dated 15.5.2006 claiming the interest. Once the representation of the petitioner had not been accepted which was

made on 27.9.2003, he had the remedy to file Original Application within a period of one year but he took almost three years to serve notice upon respondent No. 1 which was served on 15.5.2006 and there is no justification for not making this claim for almost three years before respondent No. 1. This point was considered by the learned Administrative Tribunal in detail. It was observed by the learned Tribunal that the limitation started running against the applicant on 16.4.2004 and the prescribed period of limitation expired on 15.4.2005. The application was time barred since it was filed after more than 1½ years of expiry of period of limitation and thus, it was held to be clearly time barred. These findings are based upon correct appreciation of facts and law and do not suffer from any illegality calling for an interference by this Court by exercising the writ jurisdiction and as such, there is no merit in the writ petition, which is dismissed accordingly with no order as to costs.

(V.K. Ahuja), J. **(Deepak Gupta),J.**

November 06, 2007
(BSS)